

# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**SUBJECT:** 2019 LEGISLATIVE  
GUIDING PRINCIPLES AND  
PROGRAM

**FROM:** Lee Wilcox

**DATE:** October 26, 2018

Approved

D. D. S. L.

Date

10/26/18

## RECOMMENDATION

Adopt the 2019 Legislative Guiding Principles and Program.

## OUTCOME

The 2019 Legislative Guiding Principles and Program will guide the advocacy work in the State and Federal 2019-2020 legislative session.

## BACKGROUND

Each year, the City Council adopts Legislative Guiding Principles and Program that directs and informs the advocacy work of the City. As part of the effort to modernize the City's Intergovernmental Relations Program, the Administration honed the legislative guiding principles to the following:

- 1) Protect and increase funding to deliver city services, build infrastructure, and serve the San José community;
- 2) Protect local control;
- 3) Support efforts that improve the quality of life, affordability, health, environmental protection, economic development, equity, and safety in San José;
- 4) Support key infrastructure projects; and
- 5) Advance policies that shape new technology deployment to the benefit of the community.

This summer, the City Manager's Office met with Departments to talk about potential 2019 legislative and regulatory policies, and in early September convened a Citywide Legislative Team meeting with Departments and the City's Federal and State Legislative Advocates to share Department top priorities and interdepartmental policies. The Departments worked

collaboratively to identify and define cross-departmental policies. The 2019 Legislative Program in Attachment B contains the results of this work. The close coordination between Departments and extensive conversations about feasibility and resources allowed staff to prioritize the 2019 program to 58 policies, a 31 percent reduction from the 83 policies in the 2018 program. Out of the 2019 Legislative Program, the City Manager's Office identified 11 top citywide priorities for 2019, which are noted in Attachment A.

## **ANALYSIS**

The Administration honed the Legislative Guiding Principles into five statements that summarize the overall goals of the City. These Principles provide the policy direction that formed the individual legislative and regulatory agenda items in the 2019 Legislative Program.

The Departments closely collaborated on the 2019 Legislative Program, and the Administration identified several new legislation and regulations for cross-department coordination in 2019. In this effort, the City Manager's Office set new criteria for policies in the Legislative Program that prioritize issues based on the financial and policy impact on the City, political feasibility, and staff engagement.

The Administration also recognizes that policy windows in Sacramento and Washington D.C. often open quickly and unexpectedly. The 2019 Legislative Program contains general policy direction that will allow staff to take advantage of policy windows and advance the Council's legislative and regulatory agenda. Additionally, the 2019 Legislative Program contains legislative and regulatory policies that the State and Federal Legislative Advocates and partners are anticipating or that staff is proposing the City would lead.

The 2019 Legislative Program will provide the Administration Council direction, so the Administration can work early with our delegation, key legislative leaders, and stakeholders to implement the Council's legislative and regulatory agenda.

## **EVALUATION AND FOLLOW-UP**

Every year policy windows open with new opportunities for engagement. As these opportunities occur, staff will bring to Council any legislative or regulatory items that align with the Council-Adopted Legislative Guiding Principles, but are not covered in the 2019 Legislative Program.

## **PUBLIC OUTREACH**

This memorandum will be posted on the City's Council Agenda website for the November 6, 2018 Council Meeting.

## **COORDINATION**

Staff coordinated this memo with the City's State and Federal Legislative Advocates, the City Attorney's Office, Housing, Information Technology (IT), Transportation (DOT), Parks, Recreation, and Neighborhood Services (PRNS), Office of Economic Development (OED), Office of Emergency Management (OEM), Planning, Building, and Code Enforcement (PBCE), Finance, Fire, Police (PD), Airport, San José Clean Energy, and Environmental Services (ESD) Departments.

## **COMMISSION RECOMMENDATION/INPUT**

The San José Clean Energy Community Advisory Commission met on September 17, 2018 to review the San José Clean Energy 2019 legislative program. The Commission recommended that the Council approve the San José Clean Energy legislative priorities with the additions of policies around electrification and the smart grid.

## **CEQA**

Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment.

/s/  
Lee Wilcox  
Chief of Staff

For questions, please contact Bena Chang, Director of Intergovernmental Relations, (408) 975-3240.

Attachments:  
2019 Top Legislative and Regulatory Priorities  
2019 Legislative Program

## Attachment A: City of San José 2019 Top Legislative and Regulatory Priorities

### State

- **“Exit Fee”:** Support legislation on the Power Charge Indifference Adjustment (PCIA) to increase the transparency, rate-payer fairness, and predictability of the fee San Jose Clean Energy customers pay to exit a utility.
- **Broadband:** Oppose efforts to weaken local government’s ability to regulate wireless attachments on vertical infrastructure, and support efforts that take a balanced approach to accelerating broadband in an equitable and inclusive manner.
- **Statewide Emergency Preparedness Funding:** Explore state legislation to fund local emergency preparedness and resilience planning and training.
- **Homelessness Funding:** Pursue additional funding to address homelessness.
- **Redevelopment 2.0:** Support efforts to reestablish tax-increment financing to provide significant resources for local governments for affordable housing, infrastructure, community-serving facilities, and economic development.
- **Online Sales Tax Reform:** Support regulations or legislation that would require sellers to collect and remit sales and use tax from remote sales.
- **Disadvantaged Communities Designation:** Support legislation to broaden the state's definition of disadvantaged communities to include all socio-economically disadvantaged areas more equitably.
- **AB 195 Ballot Language:** Support efforts to reduce voter confusion on bond measure ballot statements by amending Elections Code Section 13119 [(AB 195 (Oberholte, 2018)].

### Federal

- **Broadband:** Oppose efforts to weaken local government’s ability to regulate wireless attachments on vertical infrastructure, and support efforts that take a balanced approach to accelerating broadband in an equitable and inclusive manner.
- **Immigration:** Oppose policies that take away the rights of immigrants, regardless of immigration status.
- **Private Activity Bonds:** Explore legislation to add community-serving facilities to the list of exempt facilities for Private Activity Bonds.

**Attachment B**  
**2019 LEGISLATIVE PROGRAM**

**Interdepartmental Policy Positions**

DEPARTMENT	POLICY POSITION	TOP DEPARTMENT PRIORITY	TOP CITYWIDE PRIORITY
Civic Innovation/ DOT/IT	<b>Data Privacy:</b> Support legislation that creates comprehensive data reporting requirements for all commercial uses (including freight and passenger services) in the right-of-way. Data should include safety reporting and aggregated anonymized movement data. Ensure that public agencies have the ability to collect and access data they need while protecting the privacy of individuals or the sharing of personally identifiable information that contradicts City policy or the City's Privacy Principles.	Y	
Climate Smart	<b>Cap-and-Trade:</b> Support Cap-and-Trade programs that benefit key City priorities and Climate Smart San José strategy including the Transit and Intercity Rail Capital Program, High Speed Rail, and the Affordable Housing and Sustainable Communities Program. Permit local jurisdictions and airports to allocate Cap-and-Trade allowances towards community funds or programs that they deem appropriate, and mitigate impacts in low income communities beyond traditional environmental investments.		
Climate Smart	<b>Zero Emission Vehicles:</b> Support growth in the use of zero-emission vehicles and low carbon fuels and designate revenues generated from greenhouse gas-related fees or taxes to local or municipal government entities; ensuring sufficient and dedicated EV rebate funding especially for low-income Californians.	Y	
Climate Smart	<b>Environmental Justice:</b> Support policies that provide financial and technical assistance to low-income residents and communities of color to prevent and reduce disproportionate impacts of climate change. Support investment and new technology in environmental justice communities to address the disproportionate burden of pollution.		
Climate Smart	<b>Promote Water Conservation:</b> Support the expanded use of alternative water sources (recycled water, rainwater, stormwater, graywater, etc.) for nonpotable purposes as well as supplementing our existing potable water supplies with additional potable sources (such as groundwater). Support legislation and funding that offer programs to improve water efficiency and water conservation.		

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Climate Smart	<b>Public Goods Charge:</b> Support policies that allow regulatory agencies to assign administration of all or part of the Public Goods Charge Funds to the California Energy Commission, local governments (including community choice aggregators), or to cover costs for local Distributed Energy Resources (DER) ordinances.		
Climate Smart	<b>Water and Energy Rebates:</b> Oppose legislation that decreases rebates and other incentives provided to DER projects, and pre-empts local government.		
Climate Smart	<b>Air Quality and Climate:</b> Support policies that provide financial incentives for DER projects in private sector development, including those that reduce criteria air contaminants and high global warming potential pollutants; support incentive programs that address decarbonization (e.g. electric heat pump hot water heaters).	Y	
Climate Smart	<b>Local Government Funding:</b> Promote policies that provide funding for local governments to enact programs and policies that measurably reduce local and global carbon emissions including switching from fossil fuel technologies.		
Climate Smart	<b>Carbon Accounting:</b> Support policies that establish a carbon accounting standard, designate a tracking mechanism, and create an entity to manage carbon accounting on a statewide or regional level.		
Climate Smart	<b>Transportation Demand Management:</b> Support growth in the use of sustainable modes of transportation including transit, biking, and other alternatives to single occupancy autos; designate revenues generated from greenhouse gas-related fees or taxes to local or municipal government entities.		
Climate Smart	<b>Green Building:</b> Support policies that encourage adaptive reuse of existing structures, provide financial incentives for green building (especially for affordable housing), all electric buildings and DER projects (e.g. solar photovoltaic) in public and private sector development, and promote green building practices that reduce toxics and indoor air contaminants.		
CMO/ESD/ OEM	<b>Resiliency:</b> Support efforts that make the city more resilient to climate change and natural disasters including, but not limited to: soft story seismic, sea level rise, heat waves (i.e. cooling centers), and wildfires (i.e. maintenance of vegetation)		

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DOT/Housing/ ESD/ Public Works	<b>Disadvantaged Communities Evaluation:</b> Support legislation to broaden the state's definition of disadvantaged communities, so that it includes all socio-economically disadvantaged areas more equitably and is better aligned with the needs of San José's communities of concern. Monitor and engage in efforts related to the update of the CalEnviroScreen metric, and to help communities in San José qualify for additional funding programs by broadening the scope of disadvantaged communities.	Y	Y
Finance/PRNS	<b>Private Activity Bonds:</b> Explore legislation to add community-serving facilities to the list of exempt facilities for Private Activity Bonds.	Y	Y
Housing/ PBCE	<b>Zoning and Planning:</b> Support housing and land-use legislation that fits the needs of charter cities and larger cities. Support efforts to reform the Regional Housing Needs Methodology (RHNA) that moderates San José's housing goals relative to its neighbors, takes into account absolute numbers as well as percentages, and considers overall affordable housing stock when evaluating RHNA performance. Support legislation that validates use of land use tools to promote creation of affordable housing, including ADUs and "affordable by design" densification. Support legislation that allows greater zoning and building code flexibility for cities addressing homelessness.	Y	
Housing/ Finance/OED	<b>Redevelopment 2.0:</b> Support efforts to reestablish tax-increment financing that would produce significant resources for local governments and dedication of funds for affordable housing, infrastructure, community-serving facilities, and economic development.	Y	Y
Housing/OED	<b>Opportunity Zones:</b> Implement Opportunity Zones in ways that encourage investment and development in San José. Support the development of commercial properties, mixed-use developments, and affordable housing in Opportunity Zones that help minimize and mitigate tenant displacement.	Y	
Housing/OED/ PBCE	<b>Transit-Oriented Development:</b> Work with the legislature on establishing minimum zoning requirements around transit that encourages development while preserving the quality of existing neighborhoods, providing flexibility for community planning efforts like San José's Urban Village Plans, encouraging commercial uses that increase transit use, and supporting equitable development through affordable housing development and anti-displacement measures.	Y	
Immigrant Affairs/OED	<b>Census 2020:</b> Advocate for funding to support Census activities in San José and Santa Clara County, with an emphasis on directing funding to hard-to-count populations.	Y	

DEPARTMENT	POLICY POSITION	TOP DEPARTMENT PRIORITY	TOP CITYWIDE PRIORITY
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**Department Policy Positions**

Airport	<b>Local Control:</b> Support measures to maintain local control for the Airport, including permitting, fees, and funding (important for supporting PFCs, CFCs, local control of assets, permitting for ground transportation, etc.)	Y	
Airport	<b>Operations and Funding:</b> Support and/or modify regulations, policies, and legislation to facilitate Airport operations, promote investment in the Airport, support additional air services, and enhance economic development (important for supporting funding for airport development, upgrades, and operations, e.g. AIP grants, CBP Officers, TSA Officers, LEO grants, environmental grants, etc.). Oppose mandatory environmental measures that will disqualify or reduce the eligibility of California Airports for Federal environmental mitigation grants.	Y	
Airport	<b>Terminal Area Improvement Program:</b> Support the implementation of the San José International Airport Terminal Area Improvement Program, Phase II, including all precursor efforts needed to facilitate Phase II.	Y	
Airport	<b>Aircraft Noise:</b> Oppose legislation, policies, regulations, guidelines, or procedures that would result in an increase in aircraft noise impacts on San José residents without an increased benefit to the community.	Y	
Airport	<b>Airport Demand Management:</b> Support legislation, regulations, and policies that authorize local aviation authorities to use demand management strategies to encourage the more efficient allocation of air service in the region.		
Civic Innovation	<b>Broadband:</b> Oppose legislation which would weaken local government's ability to regulate wireless attachments on vertical infrastructure and regulate the deployment of fiber/coax. Support or co-sponsor legislation that would take a balanced approach to accelerating broadband including fiber, small cells, and macro cell towers in an equitable and inclusive manner. Explore public private partnerships around Federal Infrastructure funding including, but not limited to, broadband deployment partnerships with telecom providers.	Y	Y



DEPARTMENT	POLICY POSITION	TOP DEPARTMENT PRIORITY	TOP CITYWIDE PRIORITY
DOT	<p><b>Safety and Local Discretion:</b> Work with DOT Big Cities Coalition to advance transportation policies that provide local cities with additional flexibility to ensure safety, accessibility, and safety for all users.</p> <p>Support proposals that provide funding, support, or flexibility to local governments to implement traffic safety programs and initiatives consistent with Vision Zero, including the ability to utilize Automated Speed Enforcement (ASE) tools.</p>	Y	
DOT	<p><b>Transportation Funding:</b> Preserve and pursue transportation funding from federal, state, regional, and local sources that help maintain, improve and expand transportation systems and mobility in San José. Ensure that these funds remain unencumbered towards the programs and areas with the greatest need for investment. Maintain vital funding streams at the local, regional, state, and federal level from SB 1, Cap-and-Trade, RM 3, Measure B, Active Transportation, and other programs. Support additional funding requests for investments that benefit San José's transportation priorities. Oppose legislation that would threaten San José transportation investments. Support efforts to reduce the approval of taxes and bonds for transportation and infrastructure funding measures to less than a two-thirds majority vote.</p> <p>Support policies and legislation which funds programs to reduce greenhouse gas emissions and incentivize the adoption and deployment of beneficial emerging technologies including electric vehicle technologies and infrastructure.</p>	Y	
DOT	<p><b>Rapid Transit and Rail Infrastructure:</b> Continue to develop and improve transformative rail projects and infrastructure in San José including BART Phase II, Diridon Station, Caltrain, and High-Speed Rail. Support legislation and funding that provides additional opportunities to develop or improve rail infrastructure in San José. Support VTA's efforts to advance BART Phase 2 in New Starts process as it works towards a FFGA. Identify and secure funding for Diridon Station planning and construction efforts. Support Caltrain electrification and modernization efforts. Work closely with High-Speed Rail stakeholders to support infrastructure and right-of-way improvements in San José. Oppose legislative efforts that jeopardize the development or deployment of these programs.</p>		

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DOT	<p><b>Emerging Technologies:</b> Adoption of state and federal legislation and regulations that encourage the development of drones, shared mobility options, transportation networking companies, and autonomous vehicle (AV) technologies that enable the city to balance the potential harms and benefits. Continue to work with state agencies as regulations are implemented.</p> <p>Support regulations and legislation that provides travel data from transportation companies for land-use planning, traffic management, and operational purposes. Encourage the development of inclusive mobility options that can provide equitable and accessible transit options for all of San José's residents. Oppose efforts that would prevent San José from developing regulations independent from federal and state statutes.</p>		
DOT	<b>CMP Alignment with VMT:</b> Support legislation developed in coordination with regional partners to align Congestion Management Program (CMP) statutes with Vehicle Miles Traveled (VMT) reduction requirements.		
ESD	<b>Extended Producer Responsibility:</b> Support efforts that address source reduction including single-use plastics, packaging, reuse, recycled content requirements, household hazardous take-backs, pharmaceuticals and sharps, and Right to Repair. Support efforts that uphold the City's bans, including bags and Expanded Polystyrene Foam; ensure state or federal regulations do not preempt the City's existing ordinances.	Y	
ESD	<b>Solid Waste:</b> Support/oppose solid waste-related legislation that would add/remove funding to local jurisdictions like the bottle bill. Support legislation to adopt a statewide landfill surcharge with an exemption for locally enacted landfill fees or other statewide solution for low cost regional landfill issue.		
ESD	<b>Local Government Energy Efficiency Programs:</b> Support efforts to alter cost-effectiveness calculations including Total Resource Cost used in energy efficiency programs to support our local government programs and better reflect local governments' role in capacity building.		
ESD	<b>Funding:</b> Support efforts to increase funding for stormwater infrastructure and creek cleanups.	Y	
Finance	<b>Online Sales Tax Reform:</b> Support regulations or legislation that would require sellers to collect and remit sales and use tax from remote sales.	Y	Y

DEPARTMENT	POLICY POSITION	TOP DEPARTMENT PRIORITY	TOP CITYWIDE PRIORITY
Finance	<b>Cannabis Banking:</b> Support efforts to provide banking options for the cannabis industry.		
Finance	<b>AB 195 Fix:</b> Support efforts to reduce voter confusion on bond measure ballot statements by amending Elections Code Section 13119 [AB 195 (Obernolte, 2018)]. Oppose efforts that inhibits the City's ability to issue tax-exempt bonds or increases regulatory requirements of the City with respect to issuing, monitoring, and reporting on municipal bonds.	Y	Y
Fire	<b>Cost Recovery for Fire and Emergency Medical Services (EMS):</b> Ensure adequate compensation for mutual aid activities. Oppose any efforts to shift costs from private EMS providers to the City.		
Fire	<b>DRiSC:</b> Work with the Disaster Readiness for Safer Communities (DRiSC) Coalition on legislation around fire response and emergency preparation.		
Housing	<b>Housing Stabilization:</b> Support legislation which strengthens rent stabilization, including reform of Costa Hawkins, and protects the rights and housing opportunities for residents at risk of displacement. Provide tools to facilitate the planning, development, and preservation of affordable and mixed-income residences in transit corridors and in higher-income areas of opportunity.	Y	
Housing	<b>Homeless Emergency Aid Funding 2.0:</b> Work with the Big 11 Mayor's Coalition to explore additional short-term homelessness funding opportunities.	Y	
Housing	<b>Funding and Tools:</b> Protect, increase, and expedite funding and tools to encourage affordable housing production, community development, infrastructure, and ending homelessness. Engage with ideas for affordable housing that address regional jobs/housing imbalance. Explore legislation to incentivize upgrades or redevelopment of seismically vulnerable housing. Advocate for affordable housing to be included in any Federal Infrastructure Package. Preserve the effectiveness of the Affirmative Fair Housing Rule. Protect and expand Federal tax programs including Private Activity Bonds, Mortgage Interest Deduction, and New Market Tax Credits. Support efforts to restore the value of housing tax credits for affordable housing as a result of the 2017 tax reform. Support efforts to address the increasing cost of housing construction, such as training programs for the construction trades, encouraging modular housing, and cost-efficient materials markets. Explore conservatorship authority for San José to address mental health in homeless individuals.	Y	

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Immigrant Affairs	<b>Immigration:</b> Oppose policies that take away the rights of immigrants, regardless of immigration status. Oppose efforts to remove due process rights, expand public charge rules, and weakening of data privacy or confidentiality rights. Strongly oppose policies on separating families or long-term detainment of families.	Y	Y
Immigrant Affairs	<b>DACA:</b> Support policies that provide a path to citizenship or legal permanent residency for Deferred Action for Childhood Arrival (DACA) recipients.		
IT	<b>Internet-of-Things Market and Vendor Ecosystem:</b> Encourage an open ecosystem, additional coverage and access for community uses, equity and inclusion in internet access, and uses that support public safety, transportation, and engagement.		
OED	<b>Job Creation:</b> Support Federal and State economic development programs that will help create jobs in San José, including changes to CalCompetes and State support of Opportunity Zones.		
OEM	<b>Statewide Emergency Preparedness Funding:</b> Explore state legislation to fund local emergency preparedness and resilience planning and training.	Y	Y
OEM	<b>Statewide Emergency Management:</b> Modernize and reform the State's Emergency Management System.		
OEM	<b>Funding:</b> Advocate for Federal emergency preparedness funds, including Urban Areas Security Initiative (UASI).		
PD	<b>Funding:</b> Oppose Federal action to withhold funds based on local immigration policies.		
PD	<b>Cannabis Enforcement:</b> Support efforts on enforcement of unlicensed cannabis providers. Protect local control around cannabis regulations, including delivery.		
PRNS	<b>Funding:</b> Protect and increase state and federal funds for youth violence, gang intervention and prevention, recreation-based social safety net programs, open space acquisition and preservation, and park acquisition and rehabilitation.		
PRNS	<b>Rodent Control:</b> Explore regulatory and legislative authority to allow the City to pilot innovative rodent control methods.		
PRNS	<b>Early Childhood Recreation:</b> Provide legislative clarification on the definitions of and requirements for municipal preschool, afterschool, and camp programs to ensure they meet programmatic goals and community needs.		

DEPARTMENT	POLICY POSITION	TOP DEPARTMENT PRIORITY	TOP CITYWIDE PRIORITY
San José Clean Energy	<b>"Exit Fee":</b> Oppose legislation or regulations that would suspend or slow the growth of Community Choice Aggregators (CCAs), including efforts to increase the Power Charge Indifference Adjustment (PCIA) fees that customers pay to "exit" from Investor-Owned Utilities and join San José Clean Energy. Support legislation and regulations that increase the transparency and predictability of the PCIA over time through legislation or Phase 2 of the PCIA proceeding. Oppose legislation that would expand Direct Access.	Y	Y
San José Clean Energy	<b>Energy Procurement:</b> Oppose legislation that would change energy procurement towards reducing local flexibility and increasing authority with the Investor-Owned Utilities or the CA Public Utilities Commission.		
San José Clean Energy	<b>Renewable Energy and Smart Grid:</b> Support legislation requiring or encouraging more renewable electricity procurement and a smarter grid.		